IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 770 OF 2006

IN

SHOW CAUSE NOTICE NO. 117 OF 2004

IN

SUIT NO. 2441 OF 1990

Mohammed Ayyaz Mohammed Abdul
Rehman alias Ayyaz Mohamed Shaikh. ..Appellant

Versus

Juhu Consumers Stores Ltd. & Ors. ..Respondents

Mr. Ashok Mishra for the appellant

Mr. R.V.Govilkar for respondent No.1.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.

DATE : 13th August, 2007.

P.C.

1. The Appeal is not on board for final hearing. By consent of the parties, the Appeal is taken up on board for final hearing.

2. Heard learned Counsel for both the sides.

3. It is common ground before us that the conduct which is alleged against the appellant in the show cause notice dated 13th August, 2004 will amount to a criminal contempt and not to a civil contempt. According to the provisions of Section 18 of the Contempt of Courts Act, 1971, a petition or a show cause notice alleging criminal contempt can be heard by a Bench of not less than two Judges. Therefore, the order passed by the learned Single Judge of this Court dated 19th April, 2005, which is impugned in this Appeal, is clearly contrary to the provisions of Section 18 of the Contempt of Courts Act. In this view of the matter, therefore, the Appeal is disposed of in the following terms :-

(i) The impugned order dated 19th April, 2005 passed by the learned Single Judge in Show Cause Notice No.1174 of 2004 is set aside.

(ii) The Office is directed to list the Show Cause Notice No.1174 of 2004 before the appropriate Bench of this Court on 3rd September,2007.

(iii) The Vakalatnama filed by the appellant in this Appeal shall be treated as vakalatnama filed in the Show Cause Nkotice. Therefore, it will not be necessary to effect service of the Show Cause

Notice on the noticee.

4. The learned Advocate for the noticee states that he will be appearing for the noticee before this Court on 3rd September, 2007.

Appeal disposed of.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)